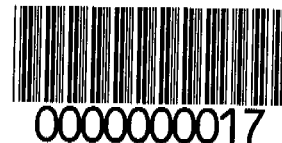


CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER



ARIZONA CORPORATION COMMISSION

DATE: August 29, 2000

DOCKET NO.: T-03810A-99-0682

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Alicia Grantham. The recommendation has been filed in the form of an Opinion and Order on:

BROADBAND OFFICE COMMUNICATIONS, INC.  
(CC&N/RESELLER/FACILITIES BASED)

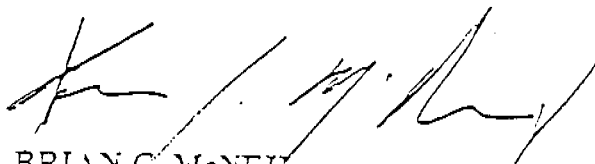
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

SEPTEMBER 7, 2000

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

SEPTEMBER 12, 2000 and SEPTEMBER 13, 2000

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.

  
BRIAN G. McNEILL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 WILLIAM A. MUNDELL  
COMMISSIONER  
5

6 IN THE MATTER OF THE APPLICATION OF  
BROADBAND OFFICE COMMUNICATIONS,  
7 INC. FOR A CERTIFICATE OF CONVENIENCE  
AND NECESSITY TO PROVIDE COMPETITIVE  
8 INTRASTATE TELECOMMUNICATIONS  
SERVICES AS A FACILITIES-BASED  
9 PROVIDER AND RESELLER AND PETITION  
FOR COMPETITIVE CLASSIFICATION OF  
10 PROPOSED SERVICES

DOCKET NO. T-03810A-99-0682

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

11 DATE OF HEARING: August 28, 2000

12 PLACE OF HEARING: Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE: Alicia Grantham

14 APPEARANCES: Mr. Michael Hallam, LEWIS AND ROCA, LLP, on  
behalf of BroadBand Office Communications, Inc.;

15 Ms. Teena Wolfe, Staff Attorney, Legal Division, on  
16 behalf of the Utilities Division of the Arizona  
Corporation Commission.

17 **BY THE COMMISSION:**

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. BroadBand Office Communications, Inc. ("BroadBand" or "Applicant") is a Delaware  
22 corporation, authorized to do business in Arizona since 1999.

23 2. On November 30, 1999, Applicant filed with the Commission an application for a  
24 Certificate of Convenience and Necessity ("Certificate") to provide competitive intrastate  
25 telecommunications services as a facilities-based provider and reseller in Arizona.

26 3. On January 3, 2000, Qwest Corporation ("Qwest"), formerly U S West  
27 Communications, Inc., filed a Motion for Leave to Intervene, which was granted on January 19,  
28 2000.

1           4.     On January 24, 2000, Applicant filed Affidavits of Publication indicating that public  
2 notice of the application was published.

3           5.     BroadBand amended its application on May 18, July 12, and July 31, 2000 to include  
4 updated tariff information.

5           6.     On July 24, 2000, the Commission's Utilities Division Staff ("Staff") filed its Staff  
6 Report, which recommended approval of the application and included a number of additional  
7 recommendations.

8           7.     On August 21, 2000, Qwest filed a Motion to Withdraw from this matter.

9           8.     Pursuant to the July 26, 2000 Procedural Order, a hearing was held on August 28,  
10 2000, and Applicant and Staff presented evidence.

11          9.     Applicant stated at the hearing that it has reached an interconnection agreement with  
12 Qwest, however, it has not been filed and approved by the Commission.

13          10.    Staff has determined that the Applicant has the technical and management  
14 qualifications in the telecommunications industry sufficient to provide quality service to Arizona  
15 customers.

16          11.    Currently there are several incumbent providers of local exchange, toll, and exchange  
17 access services in the service territory requested by Applicant. Applicant will be a new entrant in this  
18 market, and will have to compete with those companies in order to obtain customers.

19          12.    It is appropriate to classify all of Applicant's authorized services as competitive.

20          13.    The Staff Report stated that the Applicant has no market power and the reasonableness  
21 of its rates would be evaluated in a market with numerous competitors.

22          14.    Applicant submitted financial information of its parent company, BroadBand Office.  
23 BroadBand Office agreed to financially guarantee the operations and activities of BroadBand Office  
24 Communications, Inc. BroadBand Office has assets in excess of \$15 million, and shareholder equity  
25 in excess of \$15 million. Based on the financial information provided, Staff believes that Applicant  
26 lacks sufficient financial strength to offer telecommunications services in Arizona absent the  
27 procurement of a performance bond.

28 ...

1           15.   Staff recommended that BroadBand's application for a Certificate to provide  
2 competitive intrastate telecommunications services be granted subject to the following conditions:

- 3           (a)   That Applicant be required to procure a performance bond equal to a minimum  
4 of 120 days intrastate telecommunications revenue, plus the amount of any  
5 prepayments and deposits collected from its customers 30 days prior to the  
6 provision of service;
- 7           (b)   That Applicant be required to file its tariffs within 30 days of an Order in this  
8 matter, and in accordance with the Decision;
- 9           (c)   That unless it provides services solely through the use of its own facilities,  
10 Applicant procure an Interconnection Agreement before being allowed to offer  
11 local exchange service;
- 12           (d)   That Applicant file with the Commission its plan to have its customers'  
13 telephone numbers included in the incumbent's Directories and Directory  
14 Assistance databases within 30 days of an Order in this matter;
- 15           (e)   That Applicant pursue permanent number portability arrangements with other  
16 LECs pursuant to Commission rules, federal laws, and federal rules;
- 17           (f)   That Applicant agree to abide by and participate in the AUSF mechanism  
18 instituted in Decision No. 59623, dated April 24, 1996 (Docket No. R-0000-  
19 95-0498);
- 20           (g)   That Applicant abide by the quality of service standards that were approved by  
21 the Commission for USWC in Docket No. T-01051B-93-0183;
- 22           (h)   That in areas where Applicant is the sole provider of local exchange service  
23 facilities, Applicant will provide customers with access to alternative providers  
24 of service pursuant to the provisions of Commission rules, federal laws, and  
25 federal rules;
- 26           (i)   That Applicant be required to certify, through the 911 service provider in the  
27 area in which it intends to provide service, that all issues associated with the  
28 provision of 911 service have been resolved with the emergency service  
providers within 30 days of an Order in this matter;
- (j)   That Applicant be required to abide by all the Commission decisions and  
policies regarding CLASS services;
- (k)   That Applicant be required to provide 2-PIC equal access;
- (l)   That Applicant be required to inform the Commission immediately upon  
changes to Applicant's address or telephone number; and,
- (m)   That Applicant be required to abide by all Commission rules and regulations.

16.   At the hearing, Applicant agreed to abide by all of Staff's recommendations.

**CONCLUSIONS OF LAW**

1  
2 1. Applicant is a public service corporation within the meaning of Article XV of the  
3 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

4 2. The Commission has jurisdiction over Applicant and the subject matter of the  
5 application.

6 3. Notice of the application was given in accordance with the law.

7 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a  
8 Certificate to provide competitive telecommunications services.

9 5. Pursuant to Article XV of the Arizona Constitution as well as the Arizona Revised  
10 Statutes, it is in the public interest for Applicant to provide the telecommunications services set forth  
11 in its application.

12 6. With the conditions stated below, Applicant is a fit and proper entity to receive a  
13 Certificate authorizing it to provide competitive facilities-based and resold intrastate  
14 telecommunications services in Arizona.

15 7. The telecommunications services that the Applicant intends to provide within Arizona  
16 are competitive.

17 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,  
18 it is just and reasonable and in the public interest for Applicant to establish rates and charges which  
19 are not less than the Applicant's total service long-run incremental costs of providing the competitive  
20 services approved herein.

21 9. Staff's recommendations in Findings of Fact No. 15 are reasonable and should be  
22 adopted.

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 **ORDER**

2 IT IS THEREFORE ORDERED that the application of BroadBand Office Communications,  
3 Inc. for a Certificate of Convenience and Necessity for authority to provide competitive facilities-  
4 based and resold intrastate telecommunications services in Arizona shall be, and is hereby, granted,  
5 as conditioned below.

6 IT IS FURTHER ORDERED that BroadBand Office Communications, Inc. shall procure a  
7 performance bond equal to a minimum of 120 days of intrastate telecommunications revenue, plus  
8 the amount of any prepayments and deposits 30 days prior to the provision of service. If after one  
9 year, BroadBand Office Communications, Inc. desires to discontinue the performance bond, it must  
10 file information with Staff that demonstrates its financial viability. Staff will then review the  
11 information and provide BroadBand Office Communications, Inc. its decision concerning financial  
12 viability within 30 days of receipt of the information.

13 IT IS FURTHER ORDERED that prior to providing local exchange service, BroadBand  
14 Office Communications, Inc. shall comply with all of the Staff recommendations set forth in Findings  
15 of Fact No. 15.

16 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

17 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

18  
19 CHAIRMAN

COMMISSIONER

COMMISSIONER

20  
21  
22 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
23 Secretary of the Arizona Corporation Commission, have  
24 hereunto set my hand and caused the official seal of the  
25 Commission to be affixed at the Capitol, in the City of Phoenix,  
26 this \_\_\_\_ day of \_\_\_\_\_, 2000.

27 BRIAN C. McNEIL  
28 EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
AG:dp

1 SERVICE LIST FOR:

BROADBAND OFFICE COMMUNICATIONS, INC.

2 DOCKET NO.:

T-03810A-99-0682

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